

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JEFFREY T. TIERNEY,

Plaintiff,

vs.

AGA MEDICAL CORPORATION, A
Minnesota Corporation;

Defendant.

4:12CV3178

MEMORANDUM AND ORDER

This case was originally filed in the District Court of Douglas County, Nebraska. The defendant, who is represented by counsel located in Lincoln, Nebraska, removed the case to federal court. The clerk of the federal court assigned a Lincoln, Nebraska trial location.

Pending before the court is the plaintiff's objection to a Lincoln trial location, (filing no. 8), and his motion to change the trial location to Omaha, Nebraska. (Filing No. 10). The plaintiff argues:

Plaintiff and his witnesses (including his medical care providers) . . . are all residents of Omaha, Nebraska. To transport plaintiff's witnesses to Lincoln, Nebraska would place an undue hardship and expense upon Plaintiff if this case remains in Lincoln at the convenience of Defendant's attorneys.

Filing No. 10. The defendant has not responded to the objection or the motion, and the deadline for responding has passed. The court deems the plaintiff's objection and motion unopposed.

Accordingly,

IT IS ORDERED:

- 1) The plaintiff's objection to a Lincoln trial location, (filing no. 8), is sustained, and his motion to change the trial location to Omaha, Nebraska, (filing no. 10), is granted.

- 2) This case is reassigned to Omaha for trial.
- 3) The undersigned magistrate judge remains the assigned judge for this case.
- 4) Counsel for the parties shall confer and, on or before **October 8, 2012**, they shall jointly file a Form 35 (Rule 26 (f)) Report, a copy of which can be found at <http://www.ned.uscourts.gov/forms> in [Word](#) and [WordPerfect](#) format.
- 5) If one or more of the parties believes a planning conference is needed to complete the Rule 26(f) Report, or if the parties cannot agree on one or more of the deadlines identified or case progression issues raised in the Rule 26(f) Report, on or before, **October 1, 2012**, a party shall contact my chambers at (402) 437-1670, or by email addressed to zwart@ned.uscourts.gov, to arrange a conference call.

September 18, 2012.

BY THE COURT:

s/ Cheryl R. Zwart

United States Magistrate Judge